IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 1821 of 2007(P)

PETITIONERS:

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1. KUTTY IRAVI,
   MELEKUNNATHU PARAVILA PUTHEN VEEDU,
   AKAMON, AYUR, KOLLAM DISTRICT.

2. THANKAMONY, W/O. VISWAMBARAN,
   MELEKUNNATHU PARAVILA PUTHEN VEEDU,
   AKAMON, AYUR, KOLLAM DISTRICT.

BY ADV. SRI.D.SAJEEV
SMT.S.B.JAYARESMI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   THE SECRETARY TO HOME DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL OF POLICE,
   POLICE HEAD QUARTERS, THIRUVANANTHAPURAM.

3. THE SUPERINTENDENT OF POLICE,
   KOLLAM.

4. THE SUB INSPECTOR OF POLICE,
   CHADAYAMANGALAM POLICE STATION,
   CHADAYAMANGALAM.

BY GOVERNMENT PLEADER SRI. S.U. NAZAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF CRIME NO.361/06 REGISTERED BY THE TH RESPONDENT DT.30.10.06 AND FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KOTTARAKARA.

EXT.P2 TRUE COPY OF REPRESENTATION SUBMITTED BY THE 1ST PETITIONER BEFORE THE HON'BLE HOME MINISTER OF KERALA DT.12.11.06.

EXT.P3 SERIES - TRUE COPIES OF THE ACKNOWLEDGEMENTS RECEIVED BY THE 1ST PETITIONER WHICH EVIDENCES THE RECEIPT OF 1ST PETITIONER'S COMPLAINT.

/TRUE COPY/

R. BASANT, J.

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W.P.C.No. 1821 of 2007 P

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Dated this the 22nd day of March, 2007

JUDGMENT

The petitioners are the mother and wife of one Viswambharan, who is said to be missing from 19.10.2006. The wife and children of the said Viswambharan were residing separately and he was residing in a house near the house of his mother. The said Viswambharan used to consume liquor. He was found last in a toddy shop. He was found missing thereafter. He was in the habit of proceeding to various places for work and returning only after long periods. His absence was explained in that manner by his friends and relatives. But as he was not found returning and he could not be traced, a complaint was lodged by his mother and the same was registered as a crime under the caption "man missing".

2. Investigation has not led to any specific results. He has not been traced so far. There are indications to suggest that he, after taking drinks, had jumped into the canal nearby and was found swimming there. He allegedly used to resort to such course earlier also. So no one found anything significant in that conduct. The

petitioner complains that there is no proper investigation. Only the local Sub Inspector is conducting the investigation. The short prayer of the petitioner is that there may be a direction that the investigation may be conducted by a more competent and senior officer.

3. The learned Prosecutor submits that all necessary steps have been taken in the investigation of the crime and that the police have not been able to get any clues to explain the disappearance of the said Viswambharan. The needful is being done and efforts are being made. The police expect that they will be able to explain the missing of the person. It is not necessary at this stage to entrust the investigation to any other official, it is submitted.

4. A period of about 5 months has by now elapsed. I have gone through the case diary. Though the Investigator cannot be said to be contumaciously guilty of any lapse, I agree with the learned counsel for the petitioner that results having not been achieved, there must be a more earnest and active effort to continue the investigation. This is all that the petitioners pray for.

5. I am, in these circumstances, satisfied that the third respondent, Superintendent of Police, can be directed to monitor the investigation into

the matter and if necessary take appropriate further action, including that of entrusting the investigation to any senior person. The third respondent must take active interest and personally monitor the investigation.

6. This Writ Petition is allowed to the above extent. The learned Public Prosecutor shall communicate this direction to the 3rd respondent.

(R. BASANT)
Judge

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